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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,464	10/15/2003	Jean-Claude Hauer	Q74306	4684
23373	7590	11/23/2005		
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER KATCHEVES, BASIL S	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/684,464	HAUER ET AL.	
	Examiner	Art Unit	
	Basil Katcheves	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17-21, 23 and 25-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17-21, 23, 25-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Applicant has cancelled claims 16, 22 and 24 and added new claims 25-29.

Claim Rejections - 35 USC § 102

Claims 1, 3-9, 12-14, 17, 19, 21, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,012,885 to Lovatt for disclosing a closing device as in the previous office action.

In addition, Regarding claim 25, Lovatt discloses the plug portion as being a single piece.

Regarding claim 27, claim 27 is rejected for disclosing a frame, a cover (components 7 through 43 as shown in figure 5), a hinge portion, a plug (28), an opening in the hinge portion (figs. 2 & 5).

Regarding claim 28, Lovatt discloses the seal as inherently capable of blocking gravel.

Regarding claim 29, Lovatt discloses that when the cover is opened, it may inherently contact any gravel, pushing it towards the drain 50 (fig. 5).

Claim Rejections - 35 USC § 103

Claims 2, 10, 11, 15, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,012,885 to Lovatt as in the previous office action.

In addition, regarding claim 26, Lovatt does not disclose the plug as made from an elastomer. It would have been obvious to one having ordinary skill in the art at the

time the invention was made to modify Lovatt by using an elastomer material, since Lovatt discloses the use of elastomer gaskets, in order to create a tighter seal.

Response to Arguments

Applicant's arguments filed 6/28/05 have been fully considered but they are not persuasive. Applicant argues that Lovatt does not disclose a plug which seals the inside from the outside. However, the plug of Lovatt, as shown in fig. 5, keeps debris out of the hinge and allows for any liquids or small debris to exit through drain 50. Also, the hinge assembly has the "hook" which helps eject any foreign matter through the drain. Applicant argues that the component of Lovatt does not operate in the desired manner as that of the applications plug. However, the applicant should note that the component of Lovatt meets the basic structural limitations of the plug which are in the claims of the instant application. Figures 2 & 5 also show the hook of Lovatt sealing off the inner side of the hinge assembly when the door is closed and when the "hook" (48) sweeps across the cavity 33 as the door opens, any debris will be pushed out the drain 50. Applicant argues that Lovatt does not disclose an elastically deformable element. However, applicant should note that the limitations of a material being elastically deformable are broad and that almost all material, metals included, are elastically deformable to a degree. Applicant argues the substitution of an elastomer material in claim 2. However, Lovatt teaches the use of an elastomer material for providing a better seal, as it is common in the art of weatherproofing to use elastomeric type products because they create a better water proof and air tight seal which prevents

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moisture from entering. The use of elastomeric components as moisture shields is known in the art and is not novel.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

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11/16/05



Basil Katcheves

Examiner, AU 3635



Carl D. Friedman
Supervisory Patent Examiner
Group 3600